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**FEE TRANSMITTAL  
for FY 2002**

Patent fees are subject to annual revision.

TODAY'S AMOUNT OF PAYMENT (\$) 160

**Complete if Known**

Application Number	09/017,959
Filing Date	February 3, 1998
First Named Inventor	David A. Bernhardt
Examiner Name	William M. Pierce
Group / Art Unit	3711
Attorney Docket No.	8117-000021

**METHOD OF PAYMENT (check one)**

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit  
Account  
Number

08-0750

Deposit  
Account  
Name

Harness, Dickey &amp; Pierce, P.L.C.

- ☒ Charge Any Additional Fee Required  
Under 37 CFR 1.16 and 1.17

- ☒ Applicant claims small entity status.  
See 37 CFR 1.27

2. ☒ Payment Enclosed:

- ☒ Check ☐ Credit card ☐ Money  
Order ☐ Other

**FEE CALCULATION****1. BASIC FILING FEE**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

**SUBTOTAL (1)**

(\$) 0

**2. EXTRA CLAIM FEES**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	** = 0	X	= 0
Multiple Dependent	** = 0	X	= 0

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim, if not paid
109	84	209	42	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)**

(\$) 0

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)**

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)**

(\$) 160

**SUBMITTED BY****Complete (if applicable)**

Name (Print/Type)	W. R. Duke Taylor	Registration No. Attorney/Agent	31,306	Telephone	(248) 641-1600
Signature				Date	December 17, 2001

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Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

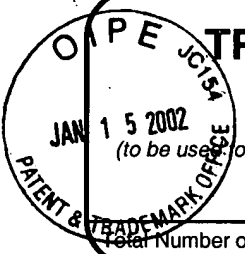
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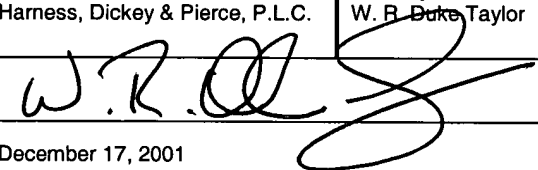
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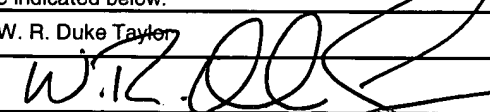
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AF/3711  
\$  
P/SB/21 based on PTO/SB/21 (08-00)

 <b>TRANSMITTAL FORM</b>	<b>Application Number</b>	09/017,959	
	<b>Filing Date</b>	February 3, 1998	
	<b>First Named Inventor</b>	David A. Bernhardt	
	<b>Group Art Unit</b>	3711	
	<b>Examiner Name</b>	William M. Pierce	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	8117-000021

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input checked="" type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Response  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input type="checkbox"/> Other Enclosure(s) (please identify below):
<b>Remarks</b>		<b>The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.</b>

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
<b>Firm or Individual name</b>	Harness, Dickey & Pierce, P.L.C.	<b>Attorney Name</b>	W. R. Duke Taylor
<b>Signature</b>			
<b>Date</b>	December 17, 2001		

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below.			
<b>Typed or printed name</b>	W. R. Duke Taylor		
<b>Signature</b>		<b>Date</b>	December 17, 2001

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

R. Kent  
1-22-02  
#25

Group Art Unit: 3711 )  
)  
Examiner: William M. Pierce )  
)  
Serial No. 09/017,959 )  
)  
Applicant: David A. Bernhardt )  
)  
Filing Date: February 3, 1998 )  
)  
For: **BOWLING BALL FINGER GRIP** )

**APPEAL BRIEF**

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Dear Sir:

This is an appeal from the June 4, 2001 final rejection of Claims 17-28 of the above-identified application. No claims have been allowed. No claims have been cancelled.

Claims 17-28 are rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 17-28 are also rejected under 35 U.S.C. Section 102(b) as being anticipated by Stevens. The claims on appeal are Claims 17-28 and are reproduced in Appendix A.

**REAL PARTY IN INTEREST**

David A. Bernhardt is the real party in interest.

**RELATED APPEALS AND INTERFERENCES**

To the best of Applicant's knowledge, no other appeals or interferences are pending which will directly affect or be directly affected by or have a bearing on the Board's decision in the present pending appeal.

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### **STATUS OF THE CLAIMS**

Claims 17-28, which are all of the pending claims in this application, stand finally rejected.

### **STATUS OF AMENDMENTS**

Applicant filed an Amendment After Final on August 30, 2001; however, no amendments were made to the claims.

### **SUMMARY OF THE INVENTION**

The invention relates to a bowling ball accessory or finger grip (See Figures 1 and 2 (10)). The accessory or finger grip includes a tubular member (20) with a bore (22) to receive the finger of a bowler (See Figures 1 and 2). A gripping surface (24) is on the tubular member (20). A plurality of gripping members (42) are on the gripping surface (24) for contacting a bowling ball (See Figure 4). The gripping surface (24) is arcuate or curved and has gripping members (42) having a desired configuration such that when force is exerted by the bowler on the ball, the gripping members (42) flatten providing a larger surface area on the ball to enhance contact with the ball (See Figure 1). A copy of the patent application is attached hereto as Appendix B.

### **ISSUE**

Appellant presents the following issue for review:

- 1) Whether or not Claims 17-28 are anticipated under 35 U.S.C. §102(b) by Stevens.

### **GROUPING OF THE CLAIMS**

Claims 17-20 stand or fall together. Claims 21-28 stand or fall together.

### **ARGUMENT**

#### **Background of the Invention**

The present invention relates to bowling, and more particularly to a gripping device positioned on the bowler's index finger to enable the bowler to impart spin upon the bowling ball.

In bowling, while the ball is rolling down the lane, it is desirous to produce rotation about the horizontal axis of the ball. This rotation creates a hook in the ball as it is rolled down the lane. The hook action on the ball enables the ball to move laterally with respect to the pins so that the ball contacts more pins creating pin action to increase the number of pins knocked down.

In order to create hook on the bowling ball, the bowler contacts his index finger against the ball. In doing so, the bowler creates friction on his finger, which, in turn causes blisters or callouses to form on the bowler's index finger. Since both blisters and callouses are undesirable, bowlers search for aids to eliminate these ailments. Bowlers have used tape, bandages and the like to prohibit blisters or callouses. However, these surfaces become glazed and do not enable the bowler to exert the proper friction, in turn, rotation onto the ball to create the desired hook.

Thus, the present invention provides the art with such device. The present invention provides the art with a grip which protects against blisters and callouses while providing a superior gripping action on the ball. The gripping surface of the present invention enables the bowler to achieve additional revolutions on the ball while it is rolling down the lane.

The Stevens reference fails to anticipate Applicant's invention.

The Examiner has rejected Claims 17-28 under 35 U.S.C. Section 102(b) as being anticipated by Stevens (Des. 97,360). A copy of the Examiner's Final Rejection and a copy of the Stevens reference are attached to this Appeal Brief as Appendix C and D, respectively.

First, the Stevens reference is a design patent. The Stevens reference has no specification. Stevens illustrates four views of a finger toothbrush. The Stevens finger toothbrush fails to anticipate a bowling ball accessory or bowling finger grip which is utilized by a bowler to exert hook onto a bowling ball.

The standard for anticipation under 35 U.S.C. §102(b) is a two part test. The Court in In re Paulsen 31 U.S.P.Q. 2d 1671 at 1673 (Fed. Cir. 1994) stated:

A rejection for anticipation under §102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. In re Spada 911 F.2d

705, 708, 15 U.S.P.Q. 2d 1655, 1657 (Fed. Cir. 1990). In addition the reference must be enabling and describe the Applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention. Id.

In Paulsen the Court found that the subject matter at hand, a computer, was anticipated by a calculator. The Board confirmed that a calculator is considered to be a particular type of computer by those of ordinary skill in the art.

In the case at hand, one of ordinary skill in the art is a bowler. The present invention relates to a bowling accessory which is placed on a bowler's finger to contact a bowling ball. The bowling accessory includes projections which flatten to provide a larger surface to grip the bowling ball enabling the bowler to better initiate rotation as the bowling ball is released.

The Stevens reference cited by the Examiner is a design patent which illustrates four figures of a finger toothbrush. Applicant contends that the Stevens toothbrush does not anticipate Applicant's claimed bowling accessory. The Stevens reference does not illustrate projections having a desired configuration such that the tips of the projections define a curve which has a curvature substantially like a curvature of a bowling ball when force is exerted by the bowler on the ball. Accordingly, Stevens fails the first part of the anticipation test.

Further, even if one would consider which Applicant does not, that Steven discloses the features of Claim 1, Stevens in no way sufficiently describes Applicant's claimed invention to have placed it in possession of a person of ordinary skill in the field of the invention. Stevens' only enabling teaching would be to provide a bowler with an item to brush his teeth. Accordingly, the Stevens reference fails to meet the second prong of the test of anticipation under 35 U.S.C. §102 as defined in Spada and reiterated in Paulsen.

Claims 17 through 20 and 21 through 28 stand and fall together. Accordingly, Applicant believes the above grouping is proper.

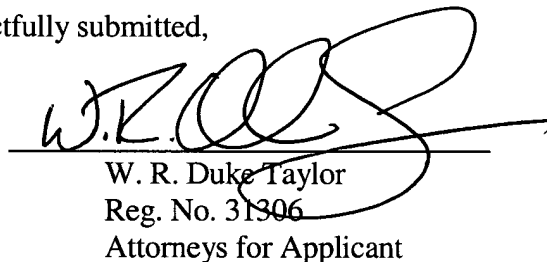
With respect to the Examiner's §112 rejection, Applicant believes that the claims clearly point out and distinctly claim the subject matter which Applicant regards as the invention. One skilled in the art would readily obtain the meaning of the claims from the reading of the claims. Accordingly, since the Examiner has not stated any specifics as to why Applicant's claims are allegedly indefinite other than making conclusive statements, Applicant believes the claims to be proper and overcome the Examiner's §112 rejection.

### **CONCLUSION**

Applicant respectfully submits that the Examiner's anticipation rejection is improper. The Examiner has failed to provide a reference which meets both parts of the above identified test. Accordingly, Applicant believes Claims 17 through 28 to be patentable over the cited art and respectfully requests allowance of the same.

Respectfully submitted,

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December 17, 2001

Attorney Docket No. 8117-000021

WRDT/jp